

### REMARKS

Claims 1-12 are pending, with claim 1 being the only independent claim. Without conceding the propriety of the rejections, claim 1 has been amended herein to even more clearly recite and distinctly claim the present invention. Support for the amendment may be found throughout the specification, including in the Figures and at page 6, lines 1-4. Accordingly, no new matter has been added.

Applicants respectfully request that the Examiner reconsider and withdraw the outstanding rejections in view of the foregoing amendments and the following remarks.

#### ***Claim Rejections Under 35 U.S.C. § 103***

Claims 1-6 and 8-12 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Evezich (US Patent No. 4,469,250) in view of C.D. Chambers (US Patent No. 3,606,089). Applicants respectfully disagree with this rejection; therefore, this rejection is respectfully traversed. Applicants note that claim 1 has been amended herein to further clarify that the flexible lower part of the pouch has only one contraction.

As claimed, the present invention relates to a deformable flexible pouch for liquid or pasty fluid products. The flexible pouch comprises a rigid upper part (3) comprising an orifice neck (5) and a flexible and deformable lower part (4) and is assigned to means intended for ensuring the dispensing of said products without the return of air into the pouch, the two parts (3, 4) being articulated on one another in such a way that the top of the inner wall of the lower part (4) is laid against the inner wall of the upper part (3) during the shrinkage of the pouch (2). The flexible lower part (4) of the pouch has ***only one*** contraction (7) forming a concertina having a form such that it is folded back onto the inner wall of the rigid upper part (3) when it shrinks, said contraction (7) being formed in the upper part of the flexible pouch (2).

In contrast, Evezich discloses an apparatus for dispensing flowable, usually fluid, material contained in a bladder. The apparatus of Evezich comprises an exterior resilient container adapted to receive and secure the bladder, the exterior container including a first one-way check valve communicating with the interior of the bladder and positioned to permit flow of the contents of the bladder to the exterior of the apparatus, and a second one-way check valve positioned to permit air to flow between the container and the bladder. The

flange 14 of Evezich provides a means of positioning the bladder insert and locking it into place.

Applicants respectfully submit that the apparatus of Evezich is very different from the claimed deformable flexible pouch comprising a rigid upper part (3) and a flexible and deformable lower part (4).

Applicants note that the Examiner acknowledges that the apparatus of Evezich is very different from the claimed deformable flexible pouch. As the Examiner states “Evezich does not teach a concertina in the pouch that folds into the upper shoulder as the pouch shrinks, the concertina being greater diameter than the neck of the pouch, the flexible pouch in a rigid bottle and a manual pump without an air inlet, with an air circuit with transverse grooves formed on the periphery of the base of the upper rigid part of the pouch in the zone of articulation between the upper and lower parts of the pouch, the vent for the container having a filter, the pump body being fastened at the orifice of the rigid bottle by conventional means above the pouch.” (Office Action page 3).

Chambers discloses a pressurized dispenser comprising a pressurized dispenser having incorporated therein a product-containing and isolating inner pouch. The pouch 40, as described and illustrated, is an accordion-pleated sack (col. 3, lines 1-4 and figures 1-2). Accordingly, the pouch of Chambers comprises a *plurality of contractions*.

In contrast, the presently claimed deformable flexible pouch comprises a rigid upper part (3) and a flexible and deformable lower part (4), the flexible lower part (4) of the pouch having *only one* contraction (7) forming a concertina having a form such that it is folded back onto the inner wall of the rigid upper part (3) when it shrinks, said contraction (7) being formed in the upper part of the flexible pouch (2). Applicants note that the Examiner commented that it was not clear that the claimed device had only one contraction in the pouch. (Office Action page 5). Accordingly, claim 1 has been amended herein to further clarify that the flexible lower part of the pouch has only one contraction.

The multiple-concertina pouch of Chambers has many disadvantages. (see specification, page 3, lines 12-29). During filling, air inclusions risk being trapped in the folds, all the more because the viscosity of the product intended for filling the pouch of Chambers is high. Moreover, the multiple concertinas have the effect of retaining the product and consequently reducing the restoration rate of the pouch.

In contrast, the presently claimed deformable flexible pouch having *only one* contraction in the flexible pouch has many advantages. The presently claimed deformable flexible pouch having only one contraction has the advantage of allowing easy filling of the pouch, whatever the viscosity of the product. The presently claimed flexible pouch further has the advantage of possessing a rigid upper part assigned to a flexible lower part of a form that is complementary to the rigid upper during shrinkage of the flexible lower part. Accordingly, the flexible lower part of the pouch shrinks, as the product contained therein is extracted, in a way that is complementary to that of the rigid upper part such that the restoration rate of the product (i.e., the ratio of the quantity extracted to the quantity initially contained the pouch) is higher than 95% and even higher than 99%, depending on the type of product contained in the flexible pouch (page 7, lines 29-39).

Therefore, Applicants respectfully submit that even if combined, Evezich and Chambers do not disclose or suggest the presently claimed deformable flexible pouch. Even if combined, Evezich and Chambers do not disclose or suggest the presently claimed deformable flexible pouch comprising a rigid upper part (3) and a flexible and deformable lower part (4), the flexible lower part (4) of the pouch having only one contraction (7) forming a concertina having a form such that it is folded back onto the inner wall of the rigid upper part (3) when it shrinks, said contraction (7) being formed in the upper part of the flexible pouch (2). Moreover, as described above, this presently claimed deformable flexible pouch provides unexpected advantages in view of Evezich and Chambers.

Accordingly, for at least the above-described reasons, Applicants respectfully request that the outstanding rejection of claims 1-6 and 8-12 under 35 U.S.C. § 103(a) over Evezich in view of C.D. Chambers be withdrawn.

Claim 7 is rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Evezich in view of C.D. Chambers and further in view of Norman (US Patent No. 5,123,571) and Rebeyrolle (US Patent No. 5,123,571). Applicants respectfully disagree with this rejection; therefore, this rejection is respectfully traversed.

As described above, Evezich discloses an apparatus for dispensing flowable, usually fluid, material contained in a bladder, that is very different from the claimed deformable flexible pouch comprising a rigid upper part (3) and a flexible and deformable lower part (4).

Chambers discloses a pressurized dispenser comprising a pressurized dispenser having incorporated therein a product-containing and isolating inner pouch, wherein the pouch is an accordion-pleated sack. As such, the pouch of Chambers comprises a plurality of contractions.

Norman is cited merely as teaching a rigid concave shaped base member for a flexible pouch and Rebeyrolle is cited as teaching a reinforcing member that extends from one end of the collapsing bag to the other end.

As set forth in detail above, even if combined, Evezich and Chambers do not disclose or suggest the presently claimed deformable flexible pouch. As cited, Norman and Rebeyrolle fail to cure the many above-noted deficiencies of Evezich and Chambers. Accordingly, even if combined Evezich in view of C.D. Chambers and further in view of Norman and Rebeyrolle do not disclose or suggest the presently claimed deformable flexible pouch comprising a rigid upper part (3) and a flexible and deformable lower part (4), the flexible lower part (4) of the pouch having only one contraction (7) forming a concertina having a form such that it is folded back onto the inner wall of the rigid upper part (3) when it shrinks, said contraction (7) being formed in the upper part of the flexible pouch (2). Moreover, as described above, this presently claimed deformable flexible pouch provides unexpected advantages.

Accordingly, for at least the above-described reasons, Applicants respectfully request that the outstanding rejection of claim 7 under 35 U.S.C. § 103(a) over Evezich in view of C.D. Chambers further in view of Norman and Rebeyrolle be withdrawn.

***Other Prior Art Made of Record***

The Examiner cites both Demel (U.S. Patent No. 5,718,334) and Cogger (U.S. Patent No. 5,934,500) as relevant, but not relied upon in the present office action. Demel and Cogger are cited as allegedly showing flexible pouches with only one contraction (elements 68 in figure 2 of both references). (Office Action, page 5). Applicants strenuously disagree and provide the following comments to clarify the disclosure of Demel and Cogger.

Demel and Cogger et al. relate to a closure apparatus including a rigid container 12 and a flexible container or pouch 20. A narrow region 68 in the pouch wall 20 provides a means for enabling controlled inward folding of the flexible container wall 20 when the cap

30 is secured to the rigid container 21 as shown in Figure 3 (column 4, lines 5-10 and Figure 3 of Demel).

The narrow region 68 is shown in Figure 2 where the cap 30 is in spaced apart position and the narrow region 68 is shown in Figure 3 where the cap 30 is in a closed position (column 3, lines 59-62).

Thus, the narrow region 68 is not a contraction forming a concertina having a form such that it is folded back onto the inner wall of the rigid upper part when it shrinks. In contrast, when the narrow region 68 shrinks, it has the shape shown in Figure 3 of Demel. The narrow region 68 is not folded back onto the inner wall of the rigid part 12.

The flexible pouch according to the present invention has the advantage of possessing a rigid upper part assigned to a flexible lower part, the form of which, during the shrinkage of the pouch in proportion as the product which is contained in it is extracted, is complementary to that of the rigid part, in such a way that the restoration rate of the product, that is to say the ratio of the quantity extracted to the quantity initially contained in the pouch, is higher than 95% (page 7, line 29-39 of the specification).

Accordingly, the containers of Demel and Cogger are significantly different than the presently claimed flexible pouch, and thus, Demel and Cogger are not relevant.

### ***Conclusion***

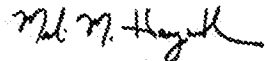
Without conceding the propriety of the rejections, claim 1 has been amended, as provided above, to even more clearly recite and distinctly claim Applicants' invention and to pursue an early allowance. For the reasons noted above, the art of record does not disclose or suggest the inventive concept of the present invention as defined by the claims.

In view of the foregoing amendments and remarks, reconsideration of the claims and allowance of the subject application is earnestly solicited. In the event that there are any questions relating to this application, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such arguments so that prosecution of this application may be expedited.

If necessary for a timely response, this paper should be considered as a petition for an Extension of Time. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #103998.B130140).

March 3, 2010

Respectfully submitted,



Melissa M. Hayworth  
Registration No. 45,774

CROWELL & MORING LLP  
Intellectual Property Group  
P.O. Box 14300  
Washington, DC 20044-4300  
Telephone No.: (202) 624-2500  
Facsimile No.: (202) 628-8844  
EJG:MMH